

Prison Reform Trust response to the Home Affairs Committee Inquiry on Serious Violence – August 2018

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reduce unnecessary imprisonment and promoting community solutions to crime
- improve treatment and conditions for prisoners and their families
- promote equality and human rights in the criminal justice system.

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Introduction

We welcome the opportunity to respond to the Home Affairs Committee's consultation on the Government's strategy to prevent serious violence. We support the principle that serious violence should be addressed through a multi-disciplinary, cross-departmental approach, with an emphasis on prevention.

Our submission will address the themes of:

- early intervention and prevention
- effective law enforcement, criminal justice, and restorative justice
- whether the serious violence strategy sets the right balance between prevention and enforcement
- the relevance of racial disparities in criminal justice outcomes; and
- specific strategies to prevent violence in prison.

Early Intervention and Prevention

1. It is essential to consider the problem of violence on different levels, encompassing:
 - Individual choice
 - values and opportunities in communities
 - social structures and governmental impact.

2. A recent NHS report, *Protecting People, Promoting Health*¹ identified individual, community, and social factors. Community factors included unemployment, high crime levels, and the drug trade. The social structure contributors were economic inequality, gender inequality, weak safety nets, and values that support the use of violence.
3. A report by the Faculty of Public Health² fully supports the Government's commitment to a cross-departmental approach:

"To ensure health system engagement with other sectors, such as education, justice, social services, women's affairs, and child development, in order to promote and develop an effective, comprehensive, national multi-sectoral response to interpersonal violence."

4. Effective early prevention depends on evidence about the factors that contribute to violence. Preventive measures are unlikely to work unless:
 - Accountability is acknowledged for the consequences of the withdrawal of resources from local communities; and
 - Relationships of trust are re-built, which in turn depend on a greater willingness on the part of those in power to seek out the views of marginalised people locally, and to act on their insights.

Effective Law Enforcement, Criminal Justice, and Restorative Justice

5. As Home Secretary, Amber Rudd MP recognised that the UK cannot hope to reduce violence by adjustments to criminal justice alone.
6. The notion that violent behaviour can be deterred by extending the use of prison custody is not based on any empirical evidence and ignores the robust evidence about social factors. As the Faculty of Public Health³ stated:

"Evidence suggests that those exposed to abuse, neglect and stress in childhood are more likely to turn to violence to attempt to solve their own problems. This requires action to target child abuse, neglect, domestic violence (including recognition of the gender imbalance in domestic violence) and other adverse childhood experiences."

7. The serious violence strategy appears to advocate a better balance between strengths-based approaches and punishment. It quotes some research findings:

*"Successful interventions for preventing reoffending tend to focus on skills building, cognitive behavioural therapy or restorative justice. These had more positive effects than...more punitive approaches, for which there is little supporting evidence."*⁴

¹ NHS: Protecting People Promoting Health, online:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/216977/Violence-prevention.pdf

² Faculty of Public Health "The role of public health in the prevention of violence": A Statement from the UK Faculty of Public Health; online:
<https://www.fph.org.uk/media/1381/the-role-of-public-health-in-the-prevention-of-violence.pdf>

³ *Ibid.*

⁴ HM Government (2018) Serious Violence Strategy; online:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698009/serious-violence-strategy.pdf

8. However, the strategy proposes a role for the criminal justice system which does not reflect this research literature or take into account the consequences of increasingly punitive responses. For example, the current offensive weapons bill proposes mandatory sentences for children. The legislation ignores the lessons from indeterminate sentences for public protection, proposing yet another severe penalty for yet another poorly defined offence, with the very likely consequences of the unjust incarceration of large numbers of children and young people.
9. Prison has a poor record for reducing reoffending— nearly half of adults (48%) are reconvicted within one year of release⁵.
10. Despite the fact that solutions lie outside criminal justice sanctions, the United Kingdom continues to place great faith in deterrence. England and Wales has the highest imprisonment rate in western Europe.⁶ The prison population has risen by 77% in the last 30 years.⁷ For serious, indictable offences, the average prison sentence is now 57.1 months— over 25 months longer than 10 years ago.⁸ Two major contributors to the over-use of prison are indeterminate sentences and ‘joint enterprise’.
11. 10,018 people are currently in prison serving an indeterminate sentence.⁹ 7,134 people are serving a life sentence and a further 2,884 people are serving sentences of Imprisonment for Public Protection (IPP).¹⁰ Despite its abolition in 2012, 88% who are serving an IPP sentence are still in prison having passed their tariff expiry date.¹¹ The prison and probation services have not provided a strategy to facilitate their safe release.
12. Provisions to deal with youth involvement in violence which unnecessarily criminalise children and young people could result in more vulnerable individuals being drawn into the criminal justice system, instead of putting them in contact with the treatment and support they need.
13. Legislation is already in place to make better use of restorative processes to prevent serious violence and as a more effective response than custody when someone has caused harm through violence. Restorative justice can be implemented by courts after conviction and prior to sentencing (deferred sentencing pending a restorative justice intervention).
14. Court data from 2007, analysed for PRT by Jessica Jacobson and Mike Hough¹², showed that sentencing was deferred in just 2% of the cases they analysed.

⁵ Tables C1a and C2a, Ministry of Justice (2018) Proven reoffending statistics: April 2016 to June 2016, London: Ministry of Justice

⁶ International Centre for Prison Studies: <http://www.prisonstudies.org/country/united-kingdom-england-wales>

⁷ Offender management statistics, Prison Population 2017 and Population capacity briefing for 20 July 2018

⁸ Table Q5.1b, Ministry of Justice (2018) Criminal justice statistics quarterly December 2017, London: Ministry of Justice

⁹ Table 1.9a, Ministry of Justice (2018) Offender management statistics quarterly: October to December 2017, London: Ministry of Justice

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² Jacobson, J., and Hough, M. (2007) *Mitigation: the role of personal factors in sentencing*, London: Prison Reform Trust, online:

15. The evidence that RJ is effective is conclusive. A 2007 analysis by Lawrence Sherman and Heather Strang¹³ found:

“Six rigorous field tests found RJ reduced recidivism after adult or youth violence. Three of these were randomised controlled trials . . . Reasonable comparisons also show effects for adult males in West Yorkshire and the West Midlands, as well as for violent families in Canada.”

16. Sharman and Strang concluded:

“In general, RJ seems to reduce crime more effectively with more, rather than less, serious crimes. The results...suggest RJ works better with crimes involving personal victims than for crimes without them. They also suggest that it works with violent crimes more consistently than with property crimes, the latter having the only evidence of crime increases.”

17. Other research showed:

“27% fewer crimes were committed by offenders who had experienced RJ Conferencing, by comparison with those offenders who didn’t.”¹⁴

“More than three-quarters (77%) of the public surveyed thought that victims should have the right to meet the offender. 69% agreed that ‘offenders need to see the real impact of their crime and face the people they’ve harmed’.”¹⁵

A study by the Institute for Criminal Policy Research (ICPR)¹⁶ found that although Government gave rhetorical support to increased use of RJ by criminal justice practitioners, “RJ tended to operate as a ‘bolt-on’ to their everyday roles, which could result in stilted progress on RJ cases.”

18. The ICPR authors concluded:

“Effective implementation must also be embedded in the wider local and national infrastructure.”¹⁷

19. Prison Reform Trust welcomes the support, in the serious violence strategy, for restorative justice and conflict resolution, but this support needs to be realised in sufficient, long-term resourcing. Properly conducted restorative justice requires a sustained commitment from criminal justice practitioners, as it involves quality

<http://www.prisonreformtrust.org.uk/uploads/documents/FINALFINALmitigation%20-%20small.pdf>

¹³ Lawrence Sherman and Heather Strang (2007) *Restorative Justice: The Evidence*, London: The Smith Institute, online:

http://www.iirp.edu/pdf/RJ_full_report.pdf

¹⁴ Shapland, J et al (2008) *Restorative Justice: Does Restorative Justice affect reconviction. The fourth report from the evaluation of three schemes*. Ministry of Justice Research Series 10/08. London: Ministry of Justice.

¹⁵ Restorative Justice Council (2015) Ipsos MORI poll summary, London: RJC

¹⁶ Alexandra Wigzell and Mike Hough (2015) *The NOMS RJ Capacity Building Programme*, London: Institute for Criminal Policy Research, online:

<https://www.restorativeresolutions.org.uk/files/download/documents/final-rj-report-26-03-2015.pdf>

¹⁷ ICPR, *op cit*.

facilitation, full preparation, and the active involvement of offenders, victims and the community (ideally to include support networks of both the offender and the victim).

Racial Equality and the Serious Violence Strategy

20. Bearing in mind the importance the serious violence strategy assigns to a 'multi-strand approach' the strategy could have explored, in some detail, the risks that its implementation will exacerbate the current disproportionality in outcomes for people from Black, Asian and Minority Ethnic (BAME) people.
21. We can find no evidence of sensitivity to the risks of racial bias in the strategy. There are no proposed mechanisms to identify and remedy bias in responding to violent offences, no reference to an equality impact assessment of the strategy, and no acknowledgment of the relevant recommendations from the Lammy Review¹⁸.
22. Some data highlighted in the Lammy Review:
 - Despite some progress on stop and search while Theresa May was Home Secretary, BAME groups are three times as likely to be subject to stop and search as their white counterparts; with Black people over six times more likely.
 - The Metropolitan Police maintain a database of people suspected of gang membership (the Trident Matrix). Of the 3,621 on the Trident Matrix, 86% are from BAME groups.
 - A survey of prisoners suggested that up to half of those convicted under Joint Enterprise identify as BAME.
23. The obvious conclusion from current practice is that the implementation of the serious violence strategy is very likely to exacerbate the institutional racism that pervades the criminal justice system. Criminal justice measures to tackle serious violence must focus on providing a racially equitable service, yet the strategy fails to grapple with the ethnic dimensions of serious violence and the criminal justice response to it.
24. Here again, the offensive weapons bill is likely to increase racial disparities, as clauses 8 and 10 widen the powers of the police in conducting stop and search, with no checks to prevent a disproportionate impact on BAME children and young people.
25. To focus the serious violence strategy on greater equality, a starting point would be to incorporate two recommendations from the Lammy Review that are most relevant to how criminal justice responds to serious violence: recommendations 6 and 10.
26. Recommendation 6 calls upon the CPS to reconsider its approach to gang prosecutions as part of its new guidance on Joint Enterprise.
27. Recommendation 10 proposes a national roll-out of the Operation Turning Point procedures, which were tested in the West Midlands, 2010-2014.

¹⁸ The Rt Hon David Lammy, MP (2017) Lammy Review: Final Report, online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf

28. As David Lammy pointed out about the OTP:

“Reoffending results were also positive. Overall reoffending rates were similar when OTP was compared to the group facing traditional prosecution, but positive differences were recorded for violent offenders in particular. This group proved 35% less likely to reoffend under OTP – and less likely to engage in serious reoffending when they did.”¹⁹

29. These data refer to the whole sample of offenders handled by the OTP – what worked to prevent further violence by BAME suspects seems to have worked equally well with white, majority suspects.

Violence in Prisons

30. In prison, serious assaults are at their highest ever level, and assaults on staff have increased by 158% in four years.²⁰

31. The most effective strategies to prevent violence are based on resolving conflicts before they escalate.

32. Traditional methods of reducing violence rely on:

- Treating violence as law-breaking
- Punishing those who engage in violence
- Targeting prevention at those who have been identified as aggressive
- Separating perpetrators from victims.

33. All of these measures are reactive; therefore, we should be sceptical about claims that they provide the basis for effective prevention. Effective disciplinary systems work to prevent violence when the focus is on harmful behaviour, not on labelling individuals as dangerous. Sharing reliable information about both violent behaviour and the risk of violent behaviour has to be done with that end in view, not as a means to pigeonholing and then exiling particular individuals.

34. We welcome aspects of the prison strategy: expanding front-line staff capacity; PRISM – which reveals violence-promoting characteristics of the prison environment; and the conflict resolution strategy. A conflict-centred strategy for the prevention of prison violence, described in a recent briefing by the Prison Reform Trust²¹:

- Analyses every violent incident as an outcome of a conflict
- Identifies the causes of the conflict and the factors that led to the escalation to violence
- Provides opportunities to all prisoners to resolve differences
- Re-focuses the staff role in dynamic security to challenging harmful behaviour

¹⁹ David Lammy, *op. cit.*

²⁰ Safety in custody statistics quarterly update to December 2017

²¹ Kimmet Edgar (2018) Ensuring a safe environment: A conflict centred strategy, London: Prison Reform Trust, online:
http://www.prisonreformtrust.org.uk/Portals/0/Documents/Ensuring_a_safe_prison.pdf

- Shares responsibility for managing conflict among managers, staff and prisoners
- Welcomes prisoners' views on how to achieve safety, incorporating them into the prison's strategy.

Conclusions

35. We agree that that serious violence should be addressed through a multi-disciplinary, cross-departmental approach, with an emphasis on prevention.
36. To resolve the conflicts that escalate into serious violence, we urge the Government to embed implementation of restorative justice into the local and national infrastructure.
37. We strongly object to the proposal, in the offensive weapons bill, to punish children with mandatory sentences.
38. We urge the Government to consult more widely on the implications of the serious violence strategy for racially disproportionate outcomes in criminal justice and to reform the strategy on the basis of those discussions.
39. We urge the Government, as part of its serious violence strategy, to implement the Lammy recommendations 6 (on joint enterprise and 'gangs) and 10, on deferred pleas.
40. We advocate a violence prevention approach in all custodial institutions which has conflict resolution at its centre.